

REMARKS

In the Decision on Appeal decided 05/07/2010, the Board of Appeals has affirmed the Examiner's rejection of Claim 1 under 35 U.S.C. 102(e) as being anticipated by Irwin (U.S. Patent No. 6,393,026). Further, in the Decision on Appeal decided 05/07/2010, the Board of Appeals has affirmed the Examiner's rejection of Claims 2-16, and 30 under 35 U.S.C. 103(a) as being unpatentable over Irwin (U.S. Patent No. 6,393,026), in view of Kadambi et al. (U.S. Patent No. 6,850,521). Additionally, in the Decision on Appeal decided 05/07/2010, the Board of Appeals has affirmed the Examiner's rejection of Claims 17 and 18 under 35 U.S.C. 103(a) as being unpatentable over Irwin (U.S. Patent No. 6,393,026), in view of Kadambi et al. (U.S. Patent No. 6,850,521), and further in view of Scales (U.S. Patent No. 5,761,729).

Applicant respectfully asserts that such rejections have been overcome in view of the amendments made hereinabove to the independent claims. Specifically, applicant has amended the independent claims to at least substantially include the following:

“wherein the first data processing unit is adapted such that the filtering of the incoming packets includes determining whether to accept or discard each of the incoming packets.”

Applicant respectfully asserts that Irwin merely teaches that “[t]he processing for forwarding a data packet can be broken into a number of procedures” (Col. 5, lines 48-50 – emphasis added), where “[a]s each data packet enters the data packet processing system, a program counter is assigned to the packet for the duration of the time the packet is held in the data packet processing system” (Col. 6, lines 5-8 – emphasis added). Further, Irwin teaches that while “[s]tepping through the program counter, an output queue of the router is selected for routing the packet,” and that “[w]hen packet processing has been completed, the packet has been forwarded to the selected output queue and the thread is made idle or destroyed” (Col. 6, lines 29-33 – emphasis added).

However, merely teaching a process for forwarding a data packet, where as each packet enters the system, a program counter is assigned to the packet, an output queue of the router is selected for routing the packet while stepping through the program counter, and, when packet processing has been completed, the packet has been forwarded to the selected output queue, as in Irwin, simply fails to teach any sort of “determining whether to accept or discard each of the incoming packets,” much less applicant’s claimed technique “wherein the first data processing unit is adapted such that the filtering of the incoming packets includes determining whether to accept or discard each of the incoming packets” (emphasis added), as claimed by applicant.

Clearly, selecting an output queue of a router for routing a packet, and forwarding the packet to the selected output queue, as in Irwin, simply fails to teach that “the filtering of the incoming packets includes determining whether to accept or discard each of the incoming packets” (emphasis added), as specifically claimed by applicant.

With respect to the rejection under 35 U.S.C. 102(c), the Examiner is reminded that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.* 868 F.2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim. This criterion has simply not been met by the above reference, as noted above.

Further, with respect to the rejection under 35 U.S.C. 103(a), to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and

the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991).

Applicant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art excerpts, as relied upon by the Examiner, fail to teach or suggest all of the claim limitations, as noted above.

Thus, a notice of allowance or specific prior art showing of each of the foregoing claim elements, in combination with the remaining claimed features, is respectfully requested.

Still yet, applicant brings to the Examiner's attention the subject matter of new Claims 31-32 below, which are added for full consideration:

"wherein determining whether to accept or discard each of the incoming packets includes reading header information and contents for each incoming packet, and searching for a matching rule in a policy condition table for each incoming packet" (see Claim 31); and

"wherein the incoming packet is discarded when the incoming packet does not match a rule stored in the policy condition table, the incoming packet is discarded when the incoming packet matches a rule instructing the first data processing unit to discard the incoming packet, and the first data processing unit forwards the incoming packet for processing when the incoming packet matches a rule instructing the first data processing unit to forward the incoming packet for processing" (see Claim 32).

Again, a notice of allowance or a proper prior art showing of all of applicant's claim limitations, in combination with the remaining claim elements, is respectfully requested.

Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAI1P069).

Respectfully submitted,
Zilka-Kotab, PC

/KEVINZILKA/

Kevin J. Zilka
Registration No. 41,429

P.O. Box 721120
San Jose, CA 95172-1120
408-505-5100